S.B. CIVIL WRIT PETITION NO. 1816/2003

Karan Singh Jodha Vs. R.R.V.P.N Ltd. & Ors.

DATE OF ORDER :: 06.04.2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. S.K.M. Vyas, for the petitioner.
Mr. R.K. Singhal, for the respondents.

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The petitioner entered in the services of Rajasthan State Electricity Board being appointed as LDC on 20.10.1965. At the time of initial appointment the petitioner was within control of Jodhpur Circle of the Rajasthan State Electricity Board, however, at the subsequent stage he was transferred under the control of Superintending Engineer (AJC) Rajasthan State Electricity Board, Ajmer. A promotion to the post of UDC was not granted to the petitioner in Ajmer Circle looking to the fact that the petitioner's seniority was maintained and determined under Jodhpur Circle. In Jodhpur Circle number of persons junior to the petitioner were promoted as Upper Division Clerk ignoring his claim as he was working in Ajmer Circle.

In the year 1975 the petitioner was re-transferred to Jodhpur Circle and promotion was accorded to him as Upper Division Clerk on 20.10.1975. After availing promotion the petitioner submitted number of representations to the authorities competent to accord promotion to him as Upper Division Clerk from the date it was given to the persons junior to him. Being failed to get any redress from the employer the petitioner approached this Court by way of filing a writ petition (S.B. Civil Writ Petition No.2656/2000) that came to be disposed of by an order dated 7.8.2000 with a request to the respondent No.1, i.e. the

Chairman of Rajasthan State Electricity Board to consider the representation of the petitioner and then to pass an appropriate order. In pursuant to the order dated 7.8.2000 a representation was again submitted by the petitioner and that came to be disposed of by Dy. Director (P&A) Jodhpur Vidyut Vitran Nigam Ltd, on 6.11.2000. The Dy. Director (P&A), Jodhpur Vidyut Vitran Nigam Ltd, Jodhpur rejected the petitioner's claim on the count that no person junior to him was promoted prior to his promotion as Upper Division Clerk. Being aggrieved by the same this petition for writ is preferred.

To substantiate the claim of the petitioner has placed reliance upon an order dated 20.8.1974 whereby the Superintending Engineer (JDO) Rajasthan State Electricity Board promoted five Lower Division Clerks as Upper Division Clerks including Sh. Kushal Chand and Habibur Rahaman. Both the persons named above are shown junior to the petitioner in the seniority list of Lower Division Clerks working in Jodhpur Circle of the Board. The petitioner has also placed reliance upon an office order dated 21.4.1973 whereby the Accounts Officer (Estt.) promoted eight persons including Sh. Shanti Chand and Sh. Ram Singh as Upper Division Clerks. According to the petitioner Sh. Shanti Chand and Sh. Ram Singh were also junior to him in the cadre of LDCs.

In reply to the writ petition it is contended by the respondents that Sh. Shanti Chand and Ram Singh were working in Accounts Department i.e. totally different wing than that of the petitioner, therefore, his seniority can not be compared with them. With regard to Sh. Kushal Chand and Habibur Rahaman it is stated by the respondents that promotion was given to them when the petitioner was working with Ajmer Circle of the Board, therefore, at that time there was no occasion to accord promotion to him in Jodhpur Circle.

It is pertinent to note here that the petitioner has already been retired from the service and now the question survives is with regard to determination of the date of promotion to the petitioner as Upper Division Clerk that will effect the parties monetarily only.

Heard counsel for the parties.

The stand of the respondents is that promotion was given to Sh. Kushal Chand and Habibur Rahaman under the order dated 20.8.1974 as Upper Division Clerk ignoring the seniority of the petitioner as at the relevant time he was working in Ajmer Circle. Admittedly even according to the respondents Sh. Kushal Chand and Habibur Rahaman were junior to the petitioner. It is true that the petitioner was working in Ajmer Circle but his rights in Jodhpur Circle should have been protected by the respondents while making promotions to higher post. The respondents could have done it at least while making promotion of the petitioner under an order dated 20.10.1975 by giving effect to the same retrospectively.

The case of the petitioner cannot be considered in parity of Sh. Shanti Chand and Ram Singh as they were working in Accounts Section. Be that as it may, the petitioner is certainly entitled to receive promotion as Upper Division Clerk at least from the date it was accorded to Sh. Kushal Chand and Habibur Rahaman.

In view of whatever discussed above, this petition for writ is allowed. A direction is given to the respondents to promote the petitioner as Upper Division Clerk from the date promotion was given to Sh. Kushal Chand and Habibur Rahaman as Upper Division Clerk i.e.

20.8.1974. The petitioner shall be entitled for all consequential benefits accruing as grant of promotion to him w.e.f. 20.8.1974. The petitioner shall also be entitled for getting his pension revised accordingly. No order as to cost.

(GOVIND MATHUR),J.

J.Goyal